

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

THERON JOHNNY MAXTON, :
Plaintiff :
: :
v. : CIVIL NO. 1:13-CV-1134
: :
WARDEN J.E. THOMAS, *et al.*, :
Defendants :
:

O R D E R

AND NOW, this 12th day of June, 2013, upon consideration of the Report and Recommendation (“R&R”) of Magistrate Judge Blewitt (Doc. 7), to which no objections have been filed,¹ and upon independent review of the record, the court finds no error in the R&R and concludes that the R&R should be adopted. Accordingly, it is ORDERED that:

1. The R&R (Doc. 7) is ADOPTED.
2. Pursuant to the magistrate judge’s recommendation, it is ordered as follows:
 - a. Plaintiff’s request that the court order the BOP to remove him from USP-Lewisburg is DISMISSED with prejudice.

¹ Plaintiff filed a document (Doc. 8) entitled “Plaintiff Objection to the Magistrate Judge Report and Recommendation In Part.” However, this document consists merely of one sentence in which Plaintiff admits that some of his administrative remedies have not been exhausted and requests that his claims against certain Defendants be permitted to proceed. These so-called objections fail to “specifically identify the portions of the proposed findings, recommendations or report to which objection is made[,]” nor do they state the basis for Plaintiff’s objections, as required by Local Rule 72.3.

- b. Plaintiff's claims for damages against Defendants in their official capacities are DISMISSED with prejudice.
- c. Plaintiff's request for a specific amount of monetary damages (Doc. 1 at 5) is STRICKEN from the complaint.
- d. Plaintiff's request that the FBI be directed to conduct an investigation into his allegations is DISMISSED with prejudice.
- e. Plaintiff's request that criminal charges be initiated against each Defendant is DISMISSED with prejudice.
- f. All claims against Defendants U.S. Attorney General Holder, Senator Graham, and BOP Director Samuels are DISMISSED with prejudice.
- g. All claims against Defendant Warden Thomas are DISMISSED without prejudice.
- h. Plaintiff's excessive force claim against Defendants Kappa, AISA and SIS officers, Hicks, Tanner, Pigos, and Francis, regarding the mop handle incident, are DISMISSED without prejudice.
- i. Plaintiff's Eighth Amendment denial of medical care claim against Defendants Kappa, AISA and SIS officers, Hicks, Tanner, Pigos, and Francis are DISMISSED without prejudice.
- j. Plaintiff's failure to protect claim against Defendants Hicks, Tanner, Kappa, and unnamed AISA and SIS officers, regarding the alleged continuous assaults on him by inmate McDannels, is permitted to proceed.
- k. This case is remanded to Magistrate Judge Blewitt for further proceedings, including an R&R on dispositive motions if necessary.

/s/ William W. Caldwell
William W. Caldwell
United States District Judge